SIKKIM

GOVERNMENT GAZETTE

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GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 8 /LD/2006 **Dated: 14.12.2006**

The following Act passed by the Sikkim Legislative Assembly on 24th day of February 2005 and having received assent of the President on 23rd November, 2006 is hereby published for general information:-

THE SIKKIM MEDICAL REGISTRATION ACT, 2005
(ACT NO. 8 OF 2005)
AN ACT

to consolidate the laws for the registration of Medical Practitioners of modern scientific system of medicine in the State of Sikkim.

***BE** it enacted by the Legislature of Sikkim in the fifty-fifth Year of the Republic of India as follows:*

Short title, extent and Commencement.

1. (1) This Act may be called the Sikkim Medical Registration Act, 2005.
(2) It extends to the whole of the State of Sikkim.
(3) It shall come into force on such date as the State Government may, by notification, appoint.

Definitions.

2. In this Act, unless the context otherwise requires -
(a) "Council" means the Sikkim Medical Council established under the Act;
(b) "notification" means a notification published in the Official Gazette;
(c) "registered practitioner" means any person registered under the provisions of this Act;
(d) "regulations" means regulations made under section 32;
(e) "rules" means rules made under section 31.

Establishment, Incorporation and Constitution of Council.

3. (1) The State Government shall by notification establish a Council to be called "the Sikkim Medical Council" for the purposes of carrying out the provisions of this Act.

Such Council shall be a body corporate having perpetual succession and common seal of power, subject to the provisions of this Act, to acquire, hold and dispose of Property and to contract and may be the same name sue and be sued.

(2) The Council shall consist of the following members, namely:-

(a) four members to be elected from among themselves by the medical practitioners who are registered under this Act;

(b) two members to be elected from amongst themselves by the members of the Faculties of Medicine of the University established by any law for the time being in force in the State of Sikkim; and

(c) four members to be nominated by the State Government, out if whom not more than one shall be from amongst those not registered under this Act.

(3) In making nomination under clause (c) of Sub-section (2), the State Government shall have due regard to the claims of women and of other groups of practitioners, representatives of whom have not been elected under clauses (a) and (b).

(4) The President and Vice-President of the Council shall be elected by the members from amongst themselves.

(5) The election of the President and Vice-President and other members of the Council shall, subject to the provisions of this Act, be held at such time and place and in such manner as may be prescribed by the rules.

Nomination of members in default of election.

4. If any of the electorates referred to in Section 3 does not, by such date as may be prescribed by rules, elect a person to be a member of the Council, the Sate Government shall, by notification, nominate to the vacancy a person qualified for election thereto;and the person so nominated shall be deemed to be a member of the Council as if he had been duly elected by the said electorate.

Term of Office.

5. The President, Vice President and other members of the Medical Council shall, subject to the provisions of this Act, hold office for a term of five years from the date of their nomination or election or until their successors have been duly nominated, or elected, whichever is longer, and shall be eligible for re-nomination, or re-election as the case may be.

Vacancies.

6. Upon the death, resignation or vacation of office of any rnembers of the Council, another person shall be appointed a member of the Council in his place by nomination or election, as the case may be, in accordance with the provisions of Sub-section (2) of Section 3, and such person shall hold office for the remainder of the period for which the member in whose place he is appointed was nominated or elected.

Disqualifications.

7. A person shall be disqualified for being chosen as and for being a Member of the Council –

a) if he is been sentenced by a Criminal Court for an offence involving moral turpitude and punishable with imprisonment for a term exceeding three months, such sentence not having been subsequently reversed, quashed or remitted, unless he has, by order, which the State Government is hereby empowered to make in this behalf, been relieved from the disqualification arising on account of such sentence;

(b) if he is an undischarged insolvent ;
(c) if he is of unsound mind and declared by a competent Court;
(d) if he is a whole time officer or servant of the Council.

Disabilities for continuing as Member.

8. If any member, during the period for which he has been nominated or elected –
(a) absent himself, without excuse, sufficient in the opinion of the Council, from three consecutive meetings of the Council; or
(b) in the case of a member, elected under clause (b) of sub-section (2) of section 3, ceases to be member of the Faculty of Medicine of the Universit concerned;
or
(c) in the case of a member elected under clause (a) of sub-section (2) of Section 3, ceases to be a registered practitioner; or
(d) becomes subject to any of the disqualification mentioned in Section 7, the State Government shall declare his office to be vacant.

Time and place of Meeting and procedure at Meetings of Council.

9. The Council shall make such regulations as may be necessary with respect to thetime and place of the meeting of the Council and the mode of summoning the same. In the absence of any regulation as to the summoning of a meeting of the Council, it shall be lawful for the President to summon a meeting at such time and place as to him shall seem expedient by letter, addressed to each member; and at every meeting, in the absence of the President, the Vice-President, and in the absence of both, some other member to be chosen from the members present, shall act as President; and all acts of the Council shall be decided by the votes of majority of the members present at any meeting, the total members present being not less than six, and at all such meetings the President for the first time being shall, in addition to his vote as a member of the council, have a casting vote in case of any equality of votes.

Validity of Proceedings.

10. (1) No disqualification, or defect in the election or nomination of any person acting as member of the Council or as the President or Vice-President or presiding authority of a meeting shall be deemed to vitiate any act or proceeding of the Council in which such person has taken part.
(2) No act done by the Council shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Council.

Registrar and Officers.

11. (1) The Council shall appoint a Registrar, and may from time to time grant leave to the Registrar and appoint a person to act in his place. Any order of the Council appointing or dismissing a Registrar or appointing to act as Registrar for a period which exceeds or is likely to exceed the period which the Government may,from time to time direct, shall be subject to the previous approval of the State Government. The Registrar and any person appointed to act as Registrar shall be paid by the Council such salary and allowances as it may from time to time determine. Any person duly appointed to act as Registrar shall be deemed to be Registrar for all purposes of this Act.
(2) The Registrar or any other officer or servant appointed under this section shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

Register

12. The Registrar shall keep a register of medical practitioners in such form as may be prescribed by rules, in accordance with the provisions of this Act. It shall be the duty of the Registrar under the orders of the Council to keep the register correct and from time to time to enter any necessary alterations in the addresses of person registered and to enter any additional qualifications which any registered person may have obtained subsequent to his registration, and to strike off the names of all registered persons who have died.

Registration of Medical Practitioners.

13. (1) Every person who holds any of the medical qualifications included in the Schedules to the Indian Medical Council Act, 1956 (Central Act 102 of 1956), may apply to the Registrar giving a correct description of his qualifications, with the dates on which they were granted, and present his degree or diploma with a fee prescribed in the rules for being registered under the Act. The Registrar shall, if satisfied that the applicant is entitled to be registered, enter his name in the register.

(2) The Council may refuse to permit the registration of any person who has been convicted of a cognizable offence as defined in the Code of Criminal Procedure, 1989 (Central Act V of 11898), or any other law for the time being in force, or who after due inquiry has been held guilty by the Sikkim Medical Council or by the Medical Council of any other State in India of infamous conduct in any professional respect.

Appeals against Decision of Registrar.

14. (1) An appeal against the decision of the Registrar respecting to the first registration or any subsequent alteration shall be heard and determined by the Council in accordance with rules made by the State Government.

(2) Any entry in the register which shall be proved to the satisfaction of the Council to have been fraudulently or incorrectly made may be deleted from the register under the orders of the Council.

Removal of Medical Practitioner's Name from register For misconduct.

15. (1) If a Medical Practitioner has been, after due inquiry by the Medical Council, found guilty of any misconduct, the Medical Council may –

(a) issue a letter of warning addressed to such Medical Practitioner, or

(b) direct the name of such Medical Practitioner –

(i) to be removed from the register for such period as may be specified in the direction, or

(ii) to be removed from the register without specifying the period of such removal.

Explanation.- For the purposes of this section "misconduct" shall mean:-

(a) the conviction of the Medical Practitioner by a criminal court for an offence which involves moral turpitude and which is cognizable as defined in the Code of Criminal Procedure,1898 (Central Act. V of 1898), or any other law for the time being in force;

(b) any conduct which, in the opinion of the Medical Council is infamous in relation to the medical profession.

2) The Medical Council may, at any subsequent date, if it thinks fit, shall on a decision to that effect of the Central Government under Sub-section (2) of Section 24 of the Indian Medical Council Act, 1956, direct that any name so removed shall be re-entered.

Medical Council to have powers of Civil Courts.

16. In holding inquires under this Act, the Medical Council shall have the same powers as are vested in Civil Courts under The Code of Civil Procedure, 1908 (Central Act V of 1908), when trying a suit, in respect of the following matters, namely:-

(a) enforcing the attendance of any person and examining him on oath;
(b) compelling the production of documents;
(c) issuing of commissions for the examination of witnesses.

Inquiries to be deemed to be judicial proceedings.

17. All inquiries under this Act shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Indian Penal Code.

Assessor to Medical Council.

18. (1) For the purpose of advising the Medical Council on questions of law arising in inquiries before it, there shall, in all such inquiries, be an assessor to the Medical Council who has been for not less than ten years an advocate of a High Court.

(2) Where an assessor advises the Medical Council on any question of law, he shall do so in the presence of every party,or person the Medical Council has begun to deliberate as to their findings, every such party or person as aforesaid shall be informed what advice the assessor has tendered. Such party or person shall also be informed, if in any case the Medical Council does not accept the advice of the assessor on any question as aforesaid.

Renewal of Registration.

19. (1) Notwithstanding anything contained in Section 13, each medical practitioner shall pay to the Medical Council on or before the thirty-first day of December of every year, a renewal fee of two hundred rupees for the continuance of his name in the register.

(2) If the renewal fee is not paid before the due date, the Registrar shall remove the name of the defaulter from the register: Provided that the name so renewal may be re-entered in the register on payment of the renewal fee in such manner and subject to such conditions, as may be prescribed by rules.

Qualified Practitioners' Certificate

20. (1) The expression "legally qualified medical practitioner", or duly qualified medical practitioner", or any words importing a person recognized by law as a medicalpractitioner or member of the medical profession, shall mean a medical practitioner registered under this Act or a medical practitioner whose name is for the time being borne on the Indian Medical Register maintained under the Indian Medical Council Act, 1956 (Central Act 102 of 1956).

(2) A certificate required by any Act from any medical practitioner or medical officer shall be valid if the person signing the same shall have been registered under this Act or his name shall have been borne on the Indian Medical Register referred to in sub-section (1).

Persons Entitled to hold Certain Appointments.

21. A person whose name is for the time being borne on the Indian Medical Register maintained under the India Medical Council Act, 1956, or of the Medical Council of any other State in India, shall be eligible to hold any appointment as a physician, Surgeon or other medical officer in any dispensary, hospital,

infirmary or lying-in hospital, or in any public establishment, body or institution, where the modern scientific medicine is practiced.

Notice of death.

22. Every Registrar of Deaths on receiving the notice of the death of a Medical practitionerregistered under this Act shall forthwith transit by post to the Registrar appointed under this Act a certificate under his own hand of such death with the particulars of the time and place of death.

Exemption From serving On inquest, Etc.

23. Notwithstanding anything in any other law for the time being in, every person who shall be registered under this Act shall be exempt, if he so desires, from serving on any inquest or as a junior under the Code of Criminal Procedure,1998 (Central Act No. V of 1998).

Fees payable to members.

24. There shall be paid to the members of the Medical Council such fees for attendance and such reasonable traveling expenses as shall from time to time be allowed by the Medical Council and approved by the State Government.

Disposal of Fees

25. All money received by the Medical Council as fees under this Act shall be applied forhe purposes of this Act in accordance with such rules as may be made in this behalf by the State Government.

Publication of list Practitioners.

26. **(1) The Registrar shall every year on or before the thirtieth day of June shall** publish in the Official Gazette a correct list of the names and qualifications of all practitioners entered in the register since the first day of January of that year.

2) A copy of the list published under sub-section (1) shall be evidence in all courts and in judicial or quasi-judicial proceedings that the persons therein specified are registered according to the provisions of this Act, and the absence of the name of any person form such copy shall be evidence, until the contrary is proved that such person is not registered according to the provisions of this Act:

Provided that in the case of any person whose name does not appear in such copy, a certified copy under the hand of the Registrar of the entry of the name of such person on the register shall be evidence that such person is registered under the provisions of this Act:

Elections to be heldby distributive vote.

27. All elections under this Act shall be held according to the distributive system of voting

Explanation.- Distributive system of voting means a system of voting in which every voter shall be entitled to give as many votes as there are seats to be filled; Provided that no voter shall give more than one vote to any one candidate; Provided further that no voting paper shall be deemed to be valid unless the voter hasrecorded all the votes which he is entitled to give.

Penalties.

28. Whoever falsely pretends to be registered under this Act or not being registered under this Act uses in connection with his name or title any words or letters representing that he is so registered shall, whether any person is actually deceived by such pretence or representation or not, be punished in the case of a first conviction with a fine which may extend to two thousand rupees and in the case of subsequent may conviction with fine which may extend to ten thousand rupees.

Protection of action taken in good faith.

29. No suit or other legal proceeding shall lie against the State Government or t he Medical Council or any officer or servant of the State Government or Medical Council for any hing that is in good faith done or intended to be done under this Act.

Jurisdiction off Civil courts.

30. No act done in the exercise of any power conferred by or under this Act on the State Government or the Council or the Registrar shall be questioned in any Civil Court.

Power to make rules.

31. (1) The State Government, after previous publication, may by Notification make rules to carry out the purposes of this Act.

2) Every rule made under this Section shall be laid as soon as may be after it is made, before the State Legislature while it is in session, and if, before the expiry of the session in which it is so laid, agree in making any modification in the rule or agree that the rule shall not be made, the rule made thereafter have effect only in such modified form or be of no effect, as the case may be; however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Regulations.

32. (1) Subject to the provisions of this Act and the rules made under Section 31, the Council may, with the previous approval of the State Government, make regulations to carry out the provisions of this Act.

(2) All regulations made by the Council under this Act shall be published in the official Gazette.

(3) It shall be lawful for the State Government by Notification to cancel or alter any regulation made under this Act.

Control.

33. (1) If at any time it shall appear to the State Government that the Council has failed to exercise or has exceeded or abused any of the powers conferred upon it, by or under this Act, or has failed to perform any of the duties imposed upon it, by or under this Act, the State Government may, if it considers such failure, excess or abuse to be a serious character, notify the particulars thereof to the Council, and if the Council fails to remedy such default, excess or abuse, within such time as the State Government may fix in this behalf, the State Government may dissolve the Council and cause all or any of the powers and duties of the Council to be exercised or performed by such person and for such period as it may think fit and thereupon the funds and property of the Council shall vest in the State Government for the purpose of this Act, until a new Council shall have been constituted under Section 3.

(2) When the State Government has dissolved the Council under sub-Section (1), it shall take steps as soon as may be convenient to constitute a new Council under section3, and thereupon the property and funds referred to in Sub-section (1) shall revert in the Council so constituted.

(3) Notwithstanding anything contained in this Act, rules or regulations, if, at any time, it shall appear to the State Government that the Council or any other authority empowered to exercise any of the powers or to perform any of the functions under this Act, has not been validly constituted or appointed, the State Government may cause any such powers or

functions to be exercised or performed by such person in such manner and for such period not exceeding six months and subject to such conditions as the State Government thinks fit.

Power to Remove Difficulties

34. (1) If any difficulty arise in giving effect to the provisions of this Act in consequence of the transition of the said provisions before the commencement of this Act, the State Government may, by notification make such provisions as appear to it to be necessary or expedient for removing the difficulty.

2) Every notification issued under sub-section (1) shall as soon as may be after it is issued, be laid before the State Legislature.

A.P.J. ABDUL KALAM,
PRESIDENT.

By Order

R.K. Purkayastha (SSJS)
L.R.-cum-Secretary,
Government of Sikkim, Gangtok
File No. 16 (82) LD/ 2006

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